IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 1367 OF 2007

1. Siddhi Constructions & anr. ..Petitioners

Vs.

1. Shri Kaluram Sitaram Pansare
and ors. ..Respondents

Mr. V.V. Purvant i/by K.B. More for petitioners.
Mr. D.P. Adsule, APP for State.

CORAM: B.H. MARLAPALLE, J.

Date : October 22, 2007.

P.C.:

1. Heard Mr. Purvant the learned counsel for the petitioners who are impleaded as accused in C.C. No. 312 of 2002 filed for the offence punishable under Section 420 read with Section 34 of IPC. An application under Section 245 (2) of Cr.P.C. was filed by the petitioners and the same came to be rejected on 21/7/2005 by the learned JMFC at Pune. The trial court observed that the application was filed before any evidence was recorded and it was filed as soon as the process was received. Being

aggrieved by the order passed by the trial court, Criminal Revision Application No. 664 of 2005 came to be filed and the same was dismissed by the learned Additional Sessions Judge at Pune on 13/9/2006. Hence this petition under Article 227 of the Constitution.

2. Both the courts below have noted that the application under Section 245 of Cr.P.C. was filed at the first instance and the complainant was not allowed to record his evidence, obviously the application was not maintainable under Section 245 of Cr.P.C. The view taken by the trial court and confirmed by the Revisional Court cannot be termed as perverse or manifestly erroneous.

3. Hence the petition is rejected summarily.

4. This order will not come in the way of the petitioners in seeking alternative remedy that may be available in law.

(B.H. Marlapalle,J.)